

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 587

Introduced by Wishart, 27.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to adopt the Insurance
- 2 Regulatory Sandbox Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may be
2 cited as the Insurance Regulatory Sandbox Act.

3 Sec. 2. The purpose of the Insurance Regulatory Sandbox Act is to
4 create a regulatory sandbox program under the Department of Insurance
5 which allows a participant to temporarily test innovative insurance
6 products or services on a limited basis without otherwise being licensed
7 or authorized to act under the laws of the state.

8 Sec. 3. For purposes of the Insurance Regulatory Sandbox Act:

9 (1) Applicable agency means a department or agency of the state that
10 by law regulates certain types of insurance-related business activity in
11 the state and persons engaged in such insurance-related business
12 activity. This includes the issuance of licenses or any other types of
13 authorization which the department determines would otherwise regulate a
14 sandbox participant;

15 (2) Applicant means an individual or entity that is applying to
16 participate in the regulatory sandbox;

17 (3) Consumer means a person that purchases or otherwise enters into
18 a transaction agreement to receive an innovative insurance product or
19 service that is being tested by a sandbox participant;

20 (4) Department means the Department of Insurance;

21 (5) Innovation means the use or incorporation of a new or emerging
22 technology or a new use of existing technology, including blockchain
23 technology, to address a problem, provide a benefit, or otherwise offer a
24 product, service, business model, or delivery mechanism that is not known
25 by the department to have a comparable widespread offering in the state;

26 (6) Innovative insurance product or service means an insurance
27 product or service that includes an innovation;

28 (7) Insurance product or service means an insurance-related product
29 or service that requires state licensure, registration, or other
30 authorization as regulated by state law, including any insurance-specific
31 business model, delivery mechanism, or element that requires a license,

1 registration, or other authorization;

2 (8) Regulatory sandbox means the program created in section 4 of
3 this act which allows a person to temporarily test an innovative
4 insurance product or service on a limited basis without otherwise being
5 licensed or authorized to act under the laws of the state;

6 (9) Sandbox participant means a person whose application to
7 participate in the regulatory sandbox is approved in accordance with the
8 Insurance Regulatory Sandbox Act; and

9 (10) Test means to provide an innovative insurance product or
10 service in accordance with the Insurance Regulatory Sandbox Act.

11 Sec. 4. (1) The department shall create and administer a regulatory
12 sandbox program that enables a person to obtain limited access to the
13 market in the state to test an innovative insurance product or service
14 without obtaining a license or other authorization that might otherwise
15 be required.

16 (2) In administering the regulatory sandbox, the department:

17 (a) Shall consult with each applicable agency;

18 (b) May enter into agreements with or follow the best practices of
19 the Consumer Financial Protection Bureau or other states that are
20 administering similar programs; and

21 (c) May not approve participation in the regulatory sandbox by an
22 applicant or any other participant who has been convicted of, or pled
23 guilty or nolo contendere to, a serious crime:

24 (i) Involving theft, fraud, or dishonesty; or

25 (ii) That bears a substantial relationship to the applicant's or
26 participant's ability to safely or competently participate in the
27 regulatory sandbox.

28 (3) An applicant for the regulatory sandbox shall submit an
29 application to the department in a form and manner prescribed by the
30 department. The application shall:

31 (a) Include a nonrefundable application fee of fifty dollars;

1 (b) Demonstrate the applicant is subject to the jurisdiction of the
2 state;

3 (c) Demonstrate the applicant has established a physical or virtual
4 location that is adequately accessible to the department from which
5 testing will be developed and performed and where all required records,
6 documents, and data will be maintained;

7 (d) Contain relevant personal and contact information for the
8 application, including legal names, addresses, telephone numbers, email
9 addresses, website addresses, and other information required by the
10 department;

11 (e) Disclose any criminal conviction of the applicant or other
12 participating personnel, if any;

13 (f) Demonstrate that the applicant has the necessary personnel,
14 financial and technical expertise, access to capital, and developed plans
15 to test, monitor, and assess the innovative insurance product or service;

16 (g) Contain a description of the innovative insurance product or
17 service to be tested, including statements regarding the following:

18 (i) How the innovative insurance product or service is subject to
19 licensing or other authorization requirements outside of the regulatory
20 sandbox, including a specific list of all state laws, regulations, and
21 licensing or other requirements that the applicant is seeking to have
22 waived during the testing period;

23 (ii) How the innovative insurance product or service would benefit
24 consumers;

25 (iii) How the innovative insurance product or service is different
26 from other insurance products or services available in the state;

27 (iv) What risks may confront consumers that use or purchase the
28 innovative insurance product or service;

29 (v) How participating in the regulatory sandbox would enable a
30 successful test of the innovative insurance product or service;

31 (vi) A description of how the applicant will perform ongoing duties

1 after the test; and

2 (vii) How the applicant will end the test and protect consumers if
3 the test fails, including providing evidence of sufficient liability
4 coverage and financial reserves to protect consumers and to protect
5 against insolvency by the applicant; and

6 (h) Provide any other required information as determined by the
7 department.

8 (4) An applicant shall file a separate application for each
9 innovative insurance product or service the applicant wants to test.

10 (5) The following items shall not be waived as part of any
11 applicant's participation in the regulatory sandbox:

12 (a) Laws and regulations not under the jurisdiction of the Director
13 of Insurance;

14 (b) Any law or regulation required for the department to maintain
15 accreditation by the National Association of Insurance Commissioners;

16 (c) Laws regarding minimum paid-in capital or surplus required to be
17 possessed or maintained by an insurer;

18 (d) The Unfair Insurance Trade Practices Act and the Unfair
19 Insurance Claims Settlement Practices Act;

20 (e) Any requirement for insurance producers to be licensed; and

21 (f) The application of any taxes or fees.

22 (6) After an application is filed and before approving the
23 application, the department may seek any additional information from the
24 applicant that the department determines is necessary.

25 (7) Subject to subsection (8) of this section, not later than ninety
26 days after the day on which a complete application is received by the
27 department, the department shall inform the applicant as to whether the
28 application is approved for entry into the regulatory sandbox.

29 (8) The department and an applicant may mutually agree to extend the
30 ninety-day timeline described in subsection (7) of this section.

31 (9) In reviewing an application under this section, the department

1 shall consult with, and get approval from, each applicable agency before
2 admitting an applicant into the regulatory sandbox. The consultation with
3 an applicable agency may include seeking information about:

4 (a) Whether the applicable agency has previously issued a license or
5 other authorization to the applicant;

6 (b) Whether the applicable agency has previously investigated,
7 sanctioned, or pursued legal action against the applicant;

8 (c) Whether the applicant could obtain a license or other
9 authorization from the applicable agency after exiting the regulatory
10 sandbox; and

11 (d) Whether certain licensure or other regulations should not be
12 waived even if the applicant is accepted into the regulatory sandbox.

13 (10) In reviewing an application under this section, the department
14 shall also consider whether a competitor to the applicant is or has been
15 a sandbox participant and weigh that as a factor in determining whether
16 to allow the applicant to also become a sandbox participant.

17 (11) If the department and each applicable agency approve admitting
18 an applicant into the regulatory sandbox, an applicant may become a
19 sandbox participant. Applicants that become sandbox participants shall
20 incur a participation fee set by the department. The participation fee
21 shall be commensurate with the costs incurred by the department in
22 administering the applicant's participation in the regulatory sandbox.
23 Participation fees shall be dependent on factors such as the size of the
24 applicant and the number of customers the applicant may have, but shall
25 be set at a reasonable amount to encourage participation in the
26 regulatory sandbox.

27 (12) The department may enter into agreements with other states that
28 have enacted laws that are substantially similar to the Insurance
29 Regulatory Sandbox Act in order to advance the purposes of the act and to
30 facilitate the consideration of applications for participation in the
31 regulatory sandbox from persons that have satisfied the requirements of

1 this section and received approval for participation in similar programs
2 in other states.

3 (13) The department may deny any application submitted under this
4 section, for any reason, at the department's discretion.

5 (14) If the department denies an application submitted under this
6 section, the department shall provide to the applicant a written
7 description of the reasons for the denial.

8 Sec. 5. (1) If the department approves an application under section
9 4 of this act, the sandbox participant has twelve months after the day on
10 which the application was approved to test the innovative insurance
11 product or service described in the sandbox participant's application.

12 (2) A sandbox participant testing an innovative insurance product or
13 service within the regulatory sandbox is subject to the following:

14 (a) Consumers shall be residents of this state;

15 (b) The department may, on a case-by-case basis, specify the maximum
16 number of consumers that may enter into an agreement with the sandbox
17 participant to use the innovative insurance product or service; and

18 (c) The department may, on a case-by-case basis, specify the maximum
19 number of innovative insurance products or services that may be offered
20 by a sandbox participant during the test of such product or service.

21 (3) If a sandbox participant is accepted into the regulatory
22 sandbox, the department shall notify other businesses in the industry
23 that a regulatory waiver was granted in order to afford other businesses
24 the opportunity to apply for the same regulatory waiver if they so
25 choose.

26 (4) This section does not restrict a sandbox participant who holds a
27 license or other authorization in another jurisdiction from acting in
28 accordance with that license or other authorization.

29 (5) A sandbox participant is deemed to possess an appropriate
30 license under the laws of the state for the purposes of any provision of
31 federal law requiring state licensure or authorization.

1 (6) A sandbox participant that is testing an innovative insurance
2 product or service is not subject to state laws, regulations, licensing
3 requirements, or authorization requirements that were identified by the
4 sandbox participant's application and have been waived in writing by the
5 department.

6 (7) Notwithstanding any other provision of the Insurance Regulatory
7 Sandbox Act, a sandbox participant does not have immunity related to any
8 criminal offense committed during the sandbox participant's participation
9 in the regulatory sandbox.

10 (8) By written notice, the department may end a sandbox
11 participant's participation in the regulatory sandbox at any time and for
12 any reason, including if the department determines a sandbox participant
13 is not operating in good faith to bring an innovative insurance product
14 or service to market.

15 (9) The department and the department's employees are not liable for
16 any business losses or the recouping of application expenses related to
17 the regulatory sandbox, including for:

18 (a) Denying an applicant's application to participate in the
19 regulatory sandbox for any reason; or

20 (b) Ending a sandbox participant's participation in the regulatory
21 sandbox at any time and for any reason.

22 (10) No guaranty association in the state may be held liable for
23 business losses or liabilities incurred as a result of activities
24 undertaken by a sandbox participant while participating in the regulatory
25 sandbox.

26 Sec. 6. (1) Before providing an innovative insurance product or
27 service to a consumer, a sandbox participant shall disclose the following
28 to the consumer:

29 (a) The name and contact information of the sandbox participant;

30 (b) That the innovative insurance product or service is authorized
31 pursuant to the regulatory sandbox and, if applicable, that the sandbox

1 participant does not have a license or other authorization to provide an
2 insurance product or service under state laws that regulate insurance
3 products outside the regulatory sandbox;

4 (c) That the innovative insurance product or service is undergoing
5 testing and may not function as intended and may expose the consumer to
6 financial risk;

7 (d) That the provider of the innovative insurance product or service
8 is not immune from civil liability for any losses or damages caused by
9 the innovative insurance product or service;

10 (e) That the state does not endorse or recommend the innovative
11 insurance product or service;

12 (f) That the innovative insurance product or service is a temporary
13 test that may be discontinued at the end of the testing period;

14 (g) The expected end date of the testing period; and

15 (h) That a consumer may contact the department to file a complaint
16 regarding the innovative insurance product or service being tested. The
17 sandbox participant shall provide the department's telephone number and
18 website address where a complaint may be filed.

19 (2) The disclosures required by subsection (1) of this section shall
20 be provided to a consumer in a clear and conspicuous form. For an
21 Internet or application-based innovative insurance product or service, a
22 consumer shall acknowledge receipt of the disclosure before a transaction
23 may be completed.

24 (3) The department may require that a sandbox participant make
25 additional disclosures to a consumer.

26 Sec. 7. (1) At least thirty days before the end of the twelve-month
27 regulatory sandbox testing period, a sandbox participant shall:

28 (a) Notify the department that the sandbox participant will exit the
29 regulatory sandbox, discontinue the sandbox participant's test, and stop
30 offering any innovative insurance product or service in the regulatory
31 sandbox within sixty days after the day on which the twelve-month testing

1 period ends; or

2 (b) Seek an extension in accordance with section 8 of this act.

3 (2) Subject to subsection (3) of this section, if the department
4 does not receive notification as required by subsection (1) of this
5 section, the regulatory sandbox testing period ends at the end of the
6 twelve-month testing period and the sandbox participant shall immediately
7 stop offering each innovative insurance product or service being tested.

8 (3) If a test includes offering an innovative insurance product or
9 service that requires ongoing duties, the sandbox participant shall
10 continue to fulfill those duties or arrange for another person to fulfill
11 those duties after the date on which the sandbox participant exits the
12 regulatory sandbox.

13 Sec. 8. (1) Not later than thirty days before the end of the
14 twelve-month regulatory sandbox testing period, a sandbox participant may
15 request an extension of the regulatory sandbox testing period for the
16 purpose of obtaining a license or other authorization.

17 (2) The department shall grant or deny a request for an extension by
18 the end of the twelve-month regulatory sandbox testing period.

19 (3) The department may grant one extension in accordance with this
20 section for not more than twelve months after the end of the regulatory
21 sandbox testing period.

22 (4) A sandbox participant that obtains an extension in accordance
23 with this section shall provide the department with a written report
24 every three months that provides an update on efforts to obtain a license
25 or other authorization required by law, including any applications
26 submitted for licensure or other authorization, rejected applications, or
27 issued licenses or other authorizations.

28 Sec. 9. (1) A sandbox participant shall retain records, documents,
29 and data produced in the ordinary course of business regarding an
30 innovative insurance product or service tested in the regulatory sandbox.

31 (2) If an innovative insurance product or service fails before the

1 end of a testing period, the sandbox participant shall notify the
2 department and report on actions taken by the sandbox participant to
3 ensure consumers have not been harmed as a result of the failure.

4 (3) The department shall establish quarterly reporting requirements
5 for a sandbox participant, including information about any customer
6 complaints.

7 (4) The department may request records, documents, and data from a
8 sandbox participant and, upon the department's request, a sandbox
9 participant shall make such records, documents, and data available for
10 inspection by the department.

11 (5) If the department determines that a sandbox participant has
12 engaged in, is engaging in, or is about to engage in any practice or
13 transaction that is in violation of Chapter 44 or that constitutes a
14 violation of state or federal criminal law, the department may remove a
15 sandbox participant from the regulatory sandbox.

16 (6) The department shall provide a written report upon request by a
17 member of the Legislature that provides information regarding each
18 sandbox participant and that provides recommendations regarding the
19 effectiveness of the Insurance Regulatory Sandbox Act.

20 Sec. 10. The department may adopt and promulgate rules and
21 regulations to carry out the Insurance Regulatory Sandbox Act.